



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2015-0708; FRL 9949-13-Region 7]

**Approval and Promulgation of Air Quality Implementation Plans;
State of Kansas; 2015 Kansas State Implementation Plan for the
2008 Lead Standard**

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Kansas. This final action will approve Kansas' SIP for the lead National Ambient Air Quality Standard (NAAQS) nonattainment area of Salina, Saline County, Kansas, received by EPA on February 25, 2015. EPA proposed approval of this plan on February 29, 2016. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008. EPA believes that the SIP submitted by the state satisfies the applicable requirements of the Clean Air Act (CAA) identified in EPA's Final Rule published in the **Federal Register** on October 15, 2008, and will bring the designated portions of Salina, Kansas, into attainment of the 0.15 microgram per cubic meter ($\mu\text{g}/\text{m}^3$) lead NAAQS.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2015-0708. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through www.regulations.gov or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Stephanie Doolan, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7719, or by email at doolan.stephanie@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA.

Table of Contents

- I. What is Being Addressed in this Document?
- II. Have the Requirements for the Approval of a SIP Revision Been Met?
- III. EPA's Response to Comments.

IV. What Action is EPA Taking?

I. What is Being Addressed in this Document?

In this document, EPA is granting final approval of Kansas' attainment demonstration SIP for the lead NAAQS nonattainment area in portions of Salina, Saline County, Kansas. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008. EPA believes that the SIP submitted by the state satisfies the applicable requirements of the CAA identified in EPA's Final Rule (73 FR 66964, October 15, 2008), and will bring the area into attainment of the 0.15 microgram per cubic meter ($\mu\text{g}/\text{m}^3$) lead NAAQS. EPA's proposal containing the background information for this action can be found at 81 FR 10162, February 29, 2016.

II. Have the Requirements for the Approval of a SIP Revision Been Met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. EPA's Response to Comments

The public comment period on EPA's proposed rule opened February 29, 2016, the date of its publication in the **Federal Register**, and closed on March 30, 2016. During this period, EPA received one comment letter from Exide Technologies, dated March 23, 2016. The comment letter contained one comment regarding EPA's process description in section V.A.1 of the proposal which states:

"The Exide facility in Salina, Kansas, manufactures lead acid batteries for automobiles, trucks, and watercraft.

Lead emissions result from breaking open used batteries, re-melting the lead and reformulating new batteries."

Exide commented that EPA is in error regarding the description of the facility's processes; the Exide Salina, Kansas, facility does not break open used batteries, but rather, the facility manufactures new batteries at this location. EPA agrees with this comment. EPA misunderstood this portion of the facility operations. This comment does not substantively impact the decision to approve the attainment SIP, and EPA is therefore not changing its proposed action based on this comment.

IV. What Action is EPA Taking?

EPA is taking final action to amend the Kansas SIP to approve Kansas' attainment demonstration SIP for the 2008 lead NAAQS. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008 (73 FR 66964).

Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the EPA-Approved Kansas Source-Specific Requirements. Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.¹ EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

¹ 62 Fed. Reg. 27968 (May 22, 1997).

Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has

demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and

will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this rule does not affect the finality of this rulemaking for the purposes

of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such future rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2))

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 8, 2016.

Mark Hague,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

Part 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et. seq.*

Subpart R - Kansas

2. In § 52.870:

a. The table in paragraph (d) is amended by adding an entry “(5)” at the end of the table; and

b. The table in paragraph (e) is amended by adding an entry “(43)” at the end of the table.

The additions read as follows:

§52.870 Identification of plan.

(d) * * *

EPA-Approved Kansas Source-Specific Requirements

Name of source	Permit or case No.	State effective date	EPA approval date	Explanation
* * * * *				
(5) Exide Technologies	1690035	8/18/14	<u>[Insert date of publication in the Federal Register],</u> <u>[Insert Federal Register citation]</u>	

* * * * *

(e) * * *

EPA-Approved Kansas Nonregulatory Provisions

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
(43) Attainment plan for 2008 lead NAAQS	Salina	2/3/15	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	[EPA-R07-OAR- 2015-0708; 9949-13-Region 7].

[FR Doc. 2016-17065 Filed: 7/19/2016 8:45 am; Publication Date: 7/20/2016]